

#### § 401.310

for establishment by voluntary associations of United States registered pilots in order to assure adequate and efficient pilotage services for the United States waters of the Great Lakes.

[26 FR 952, Jan. 31, 1961, as amended at 32 FR 14221, Oct. 13, 1967; CGFR 68-78, 33 FR 9823, July 9, 1968. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

#### § 401.310 Application for establishment of pools.

An application by a voluntary association for authorization to establish a pool shall be filed on the form to be obtained from the Director. The form shall require, among other things, furnishing of the following information:

- (a) The name and address of the association.
- (b) The names and addresses of all officers of the association.
- (c) Type of organization (partnership, corporation, etc.).
- (d) Copies of articles of incorporation, bylaws, partnership agreements, etc.
- (e) The names and addresses of all stockholders or partners, together with the extent of their financial interest.
- (f) A copy of the financial statements of the association.
- (g) The names, addresses, and Certificates of Registration numbers of all member pilots.
- (h) The District or area in which members of the association desire to render pilotage services.
- (i) An inventory of owned or leased boats, launches, radio equipment, vehicles, etc., which may be used in the performance of pilotage services.

[26 FR 952, Jan. 31, 1961, as amended at 32 FR 14221, Oct. 13, 1967. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

#### § 401.320 Requirements and qualifications for authorization to establish pools.

No voluntary association shall be authorized to establish a pool unless:

- (a) The Director determines that a pool is necessary for the efficient dispatching of vessels and the providing of pilotage services in the area concerned.
- (b) The stock, equity, or other financial interests coupled with voting

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rights or exercise of any right of control in the management of the voluntary association is held only by member Registered Pilots registered pursuant to § 401.200, § 401.210, or § 401.220(e), excluding Applicant Pilots.

(c) The voluntary association establishes that it possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain an efficient and effective pilotage service.

(d) The voluntary association agrees that:

(1) Pilotage services will be provided on a first-come, first-serve basis to vessels giving proper notice of arrival time or pilotage service requirements, to the pilotage station, except that pilots will not be required to board vessels which do not provide safe boarding facilities;

(2) It will submit working rules for approval of the Commandant;

(3) It will adopt and use the Uniform System of Accounts, part 403 of this chapter, and such other accounting procedures and reports as may be prescribed by the Commandant;

(4) It will be subject to audit and inspection by the U.S. Coast Guard and will submit by April 1 of each year an unqualified long form audit report for the preceding year prepared by an Independent Certified Public Accountant, performed in accordance with Generally Accepted Auditing Standards promulgated by the American Institute of Certified Public Accountants.

(5) It will be subject to such other provisions as may be prescribed by the Director governing the operation of and the costs which may be charged in connection with the pools;

(6) It will coordinate on a reciprocal basis its pool operations with similar pool arrangements established by the Canadian Government and pursuant to the provisions of the United States-Canada Memorandum of Arrangements,

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Great Lakes Pilotage, or any other arrangements established by the United States and Canadian Governments.

[29 FR 10466, July 28, 1964, as amended at 31 FR 9066, July 1, 1966; 32 FR 14221, Oct. 13, 1967; CGD 81-088, 47 FR 13808, Apr. 1, 1982; CGD 88-111, 55 FR 17581, Apr. 25, 1990; 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998]

### § 401.330 Certificates of Authorization.

(a) Subject to § 401.300(b), an association that is qualified to establish a pool in a District or area is issued a Certificate of Authorization that is valid until suspended or revoked under the procedures in § 401.335.

(b) A Certificate of Authorization shall be in such form as the Director may prescribe, but shall describe the area of the Great Lakes in which the pool will perform pilotage services. A Certificate of Authorization shall be posted in the principal place of business of an association in such manner so as to be available for examination by members of the association and the public.

[26 FR 953, Jan. 31, 1961, as amended at 32 FR 14221, Oct. 13, 1967; CG 74-233, 40 FR 41527, Sept. 8, 1975. Redesignated and amended at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998]

### § 401.335 Suspension or revocation of a Certificate of Authorization.

(a) The Director may issue an order to suspend or revoke a Certificate of Authorization if—

(1) The holder of a Certificate of Authorization does not continue to meet the requirements under § 401.320; or

(2) The holder of a Certificate of Authorization does not comply with the requirements of this part.

(b) Before issuing an order to suspend or revoke, the Director notifies the holder of a Certificate of Authorization of the reasons for the proposed suspension or revocation and gives the holder an opportunity to be heard or to comply with the requirements of this part.

(c) If the Director finds that the violation of a requirement of this part involves public health, interest, or safety, or that the violation is willful, the Director may issue an order to suspend

the Certificate of Authorization without giving notice under paragraph (b) of this section. The order shall contain the reasons for the Director's action.

(d) A holder who has its Certificate of Authorization suspended under paragraph (c) of this section shall have an opportunity to be heard by notifying the Director in writing.

(e) The Director shall reinstate a Certificate of Authorization that has been suspended under paragraph (b) or (c) of this section when he determines that the holder is complying with this part.

[CGD 74-233, 40 FR 41527, Sept. 8, 1975. Redesignated and amended at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, 35140, June 29, 1998]

### § 401.340 Compliance with working rules of pools.

(a) United States or Canadian registered pilots utilizing the facilities and dispatching services of any authorized pool shall comply with its working rules approved under § 402.320, except to the extent inconsistent with the dispatch orders of the Director under § 401.720(b), and with other rules of the pool that are related to those facilities and services.

(b) The voluntary associations of U.S. Registered Pilots authorized to establish a pilotage pool may require a U.S. Registered Pilot to execute a written authorization for the pool to bill for services, deduct authorized expenses, and to comply with the working rules and other rules of the pool relating to such facilities and services. Facilities and services of the pool may be denied to any U.S. Registered Pilot who fails or refuses to execute such authorizations.

(c) U.S. Registered Pilots who fail to execute such an authorization shall not be considered members of the U.S. pool, and shall not be entitled to reciprocal dispatching and related services by United States and Canadian pilotage pools as provided for by the Memorandum of Arrangements. A U.S. Registered Pilot who fails or refuses to avail himself of the established facilities and services shall be considered as not being continuously available for service pursuant to section 4(a) of the Great Lakes Pilotage Act of 1960 (46